



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**APR 24 2013**

Mr. Michael Kerin  
Elm City College Preparatory  
403 James Street  
New Haven, Connecticut 06513

Re: PCB Cleanup and Disposal Approval under 40 CFR § 761.61(a) and § 761.79(h)  
Former Martin Luther King School, New Haven, Connecticut

Dear Mr. Kerin:

This is in response to the Notification<sup>1</sup> by Achievement First for approval of a proposed PCB cleanup plan at the former Martin Luther King School located at 580 Dixwell Avenue in New Haven, Connecticut (the Site). The Site contains PCB-contaminated materials that exceed the allowable PCB levels under 40 CFR § 761.20(a), § 761.61, and § 761.62. Specifically, PCBs have been found in caulk and glazing, in building substrates, and in soils. Achievement First is redeveloping the Site into a new school referred to as Elm City College Preparatory.

Achievement First has requested an approval under 40 CFR Part 761 to clean up and dispose of PCB-contaminated wastes prior to demolition of the school building. Specifically, Achievement First is proposing the following PCB cleanup standards and activities under this project:

- Remove PCB-contaminated building products (e.g., caulk and glazing, paint, and black barrier material with greater than or equal to ( $\geq$ ) 50 parts per million (ppm)), adjacent *porous surfaces* with PCBs greater than ( $>$ ) 1 ppm, and *non-porous surfaces*, and dispose as *PCB bulk product waste* in accordance with § 761.62;
- Dispose of bulk *PCB remediation waste* (i.e., soils) with less than ( $<$ ) 50 ppm in a state non-hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(ii); and,
- Conduct verification sampling of *porous surfaces* and soils in accordance with the provisions of 40 CFR Subpart O to confirm that PCB concentrations are less than or equal to ( $\leq$ ) 1 ppm.

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<sup>1</sup> The notification was prepared by Fuss & O'Neill on behalf of Achievement First to satisfy the requirements under 40 CFR § 761.61(a) and § 761.79(h). Information was submitted dated January 21, 2013 (Remediation Plan for PCB Containing Building Materials Removal); March 18, 2013 (e-mail response to EPA comments); and April 12, 2013 (email response to clarification questions) and shall be referred to as the "Notification".

Achievement First has determined that certain building materials (e.g., caulk, mastic, paint, and flashing tar) which have PCB concentrations at < 50 ppm, meet the criteria for an *Excluded PCB Product* under § 761.3. Under the PCB regulations, *Excluded PCB Products* are authorized for use and thus there is no requirement to remove the building materials or to decontaminate surfaces that are in contact with these building materials. While the < 50 ppm PCB building materials are not addressed in the Approval, Achievement First is proposing to remove these products prior to building demolition and to dispose of these building materials as a < 50 ppm PCB waste in accordance with the Connecticut Department of Energy and Environmental Protection (CTDEEP) regulations.

The Notification meets the requirements and standards established under §§ 761.61(a), 761.62, and 761.79 for cleanup and disposal of *PCB remediation waste* and *PCB bulk product waste*.

Achievement First may proceed with its cleanup in accordance with 40 CFR § 761.61(a); § 761.62; § 761.79(h); its Notification; and this Approval, subject to the conditions of Attachment 1.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator (OSRR07-2)  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,



James T. Owens III, Director  
Office of Site Remediation & Restoration

cc Gary Trombly, CTDEEP  
Kathleen Pane, Fuss & O'Neill  
File

Attachment 1



**ATTACHMENT 1:**

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
FORMER MARTIN LUTHER KING SCHOOL (the Site)  
LOCATION OF NEW ELM CITY COLLEGE PREPARATORY SCHOOL  
580 DIXWELL AVENUE  
NEW HAVEN, CONNECTICUT**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to the *PCB bulk product waste* and the *PCB remediation waste* located at the Site and identified in the Notification.
2. Achievement First shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. Achievement First must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, Achievement First shall contact EPA within 24 hours for direction on PCB cleanup and sampling requirements.
6. Achievement First is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time Achievement First has or receives information indicating that Achievement First or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by Achievement First are authorized to conduct the activities set forth in the Notification. Achievement First is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.

8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release Achievement First from compliance with any applicable requirements of federal, state or local law; or 3) release Achievement First from liability for, or otherwise resolve any violations of federal, state or local law.
9. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

### **NOTIFICATION AND CERTIFICATION CONDITIONS**

10. This Approval may be revoked if the EPA does not receive written notification from Achievement First of its acceptance of the conditions of this Approval within 10 business days of receipt.
11. Achievement First shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
12. Prior to initiation of work authorized under this Approval, Achievement First shall submit the following information for EPA review and/or approval:
  - a. a certification signed by its selected abatement/demolition contractor, stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
  - b. a contractor work plan, prepared and submitted by the selected demolition or abatement contractor(s) describing the containment and air monitoring that will be employed during abatement activities. This work plan should also include information on how and where wastes will be stored and disposed of, and on how field equipment will be decontaminated; and,
  - c. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the extraction and analytical method requirements and quality assurance requirements specified in the Notification and in this Approval.



## CLEANUP AND DISPOSAL CONDITIONS

13. To the maximum extent practical, engineering controls, such as barriers, and removal techniques, such as the use of HEPA ventilated tools, shall be utilized during removal processes. In addition, to the maximum extent possible, disposable equipment and materials, including PPE, will be used to reduce the amount of decontamination necessary.
14. PCB-contaminated materials shall be decontaminated and verification sampling and analysis shall be conducted as described below:
  - a. All visible residues of greater than or equal to ( $\geq$ ) 50 parts per million PCB caulk and glazing and associated *non-porous surfaces* (i.e., window/door frames) and *porous surfaces* with greater than ( $>$ ) 1 part per million (ppm) shall be removed and disposed of as a *PCB bulk product waste* as described in the Notification.
  - b. The decontamination standard for building *porous surfaces* (e.g., concrete, brick, etc.) shall be less than or equal to ( $\leq$ ) 1 part per million (ppm).
    - i) Sampling for *porous surfaces* shall be performed on a bulk basis (i.e., mg/kg) and reported on a dry weight analysis. Sampling for *porous surfaces* shall be conducted in accordance with the EPA Region 1 *Standard Operating Procedure for Sampling Porous Surfaces for Polychlorinated Biphenyls (PCBs) Revision 4, May 5, 2011*, at a maximum depth interval of 0.5 inches. Verification samples shall be collected at the frequency specified in 40 CFR 761 Subpart O.
    - ii) Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 and chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another method(s) is validated according to Subpart Q.
  - c. The decontamination standard for bulk *PCB remediation wastes* (i.e., soils) shall be  $\leq 1$  ppm.
    - i) Verification samples shall be collected on a bulk basis (e.g., mg/kg) and reported on a dry-weight basis. Verification sampling shall comply with Subpart O; samples shall be collected from both excavation bottoms and sidewalls, as applicable.
    - ii) Chemical extraction for PCBs shall be conducted using Method 3500B/3540C of SW-846 and chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another method(s) is validated according to Subpart Q.

15. PCB waste (at any concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with 40 CFR § 761.40; stored in a manner consistent with 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61 or § 761.62, unless otherwise specified below.
  - a. Non-liquid cleaning materials, PPE and similar materials resulting from decontamination may be disposed of in accordance with 40 CFR § 761.79(g)(6).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
  - c. PCB-contaminated water generated during decontamination shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

#### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

16. Achievement First shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by the Achievement First to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
17. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
18. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.



## **RECORDKEEPING AND REPORTING CONDITIONS**

19. Achievement First shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the cleanup and disposal and the analytical sampling shall be established and maintained by Achievement First in one centralized location, until such time as EPA approves in writing a request for an alternative disposition of such records. All records shall be made available for inspection to authorized representatives of EPA.
20. Achievement First shall submit a final report in both hard copy and electronic version, to the EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this final report shall include: a short narrative of the project activities with photo-documentation; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of; copies of manifests and bills of lading; and copies of certificates of disposal or similar certifications issued by the disposer.
21. Required submittals shall be mailed to:  
  
Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100 – (OSRR07-2)  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527
22. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self-disclosure or penalty policies.

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**END OF ATTACHMENT 1**